

Appl. No. 09/818,427
Amdt. dated August 16, 2005
Reply to Office Action of June 28, 2005

REMARKS

Claims 13, 15-26, 29-35 and 37-41 are currently pending in this application. Claims 13, 23, 31, 35 and 37 have been amended. No new matter has been added to this application.

Rejection of Claims 13, 15-26, 29-35 and 37-41 under 35 U.S.C. § 101

The Examiner has rejected claims 13, 15-26, 29-35 and 37-41 under 35 U.S.C. § 101 because the Examiner alleges that the claimed invention is directed to non-statutory subject matter. The Examiner contends that the claims do not claim the video and graphics overlay module and stereo display which allow the user to visualize the results of the calculations made in the graphics rendering module. The Examiner argues that the claims do not claim the practical utility of the invention but instead claim the abstract results of the graphics rendering module. Applicants respectfully traverse the rejection.

The present invention recites an augmented reality instrument guiding tool in which a virtual instrument and virtual target are used to guide an actual instrument during surgical procedures. Applicants have amended claims 13, 23, 31, 35 and 37 to recite that the rendered virtual instrument and virtual target point are provided to a video and graphics overlay module and the rendered virtual instrument and virtual target point are displayed on a stereo display. Applicants respectfully submit, that the claims, as amended, are directed to a method and apparatus for providing a virtual instrument and virtual target that is used as a tool to provide proper alignment of an actual instrument and that the claims are directed to statutory matter within the definitions of 35 U.S.C. § 101. Applicants request that the rejection of 13, 15-26, 29-35 and 37-41 under 35 U.S.C. § 101 be withdrawn.

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Rejection of Claims 13, 15-26, 29-35 and 37-41 under 35 U.S.C. § 112

The Examiner has rejected claims 13, 15-26, 29-35 and 37-41 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants respectfully traverse the rejection.

The Examiner contends that claims 13, 23, 31, 35 and 37 are indefinite because the Examiner alleges that the step of "aligning the at least one identified graphical axis marker with respect to the at least one graphics guide to align the instrument to the path" is incomplete. Applicants have amended claims 13, 23, 31, 35 and 37 to indicate that the alignment occurs by "repositioning the virtual instrument with respect to the virtual target point using the stereo display so that the virtual instrument moves toward alignment with the target". Applicants respectfully submit that claims 13, 23, 31, 35 and 37, as amended, adequately recite how the graphics guide is aligned the instrument to the path.

With respect to claim 16, the Examiner contends that the claim conflicts with its dependent claim 13 since claim 13 recites constructing and rendering a graphical axis marker and claim 16 recites using an existing feature as a graphical axis marker. Applicants have amended claim 16 to recite "effectively constructing and rendering a graphical axis marker by selecting an existing feature of the instrument to be a graphical axis marker". Applicants respectfully submit that claim 16, as amended, corrects any prior inconsistencies.

Claims 15-22, 24-26, 29, 30, 32-34 and 38-41 being dependent upon independent claims 13, 23, 31, 35 and 37 are not at issue since claims 13, 23, 31, 35 and 37, as amended, correct any prior indefiniteness and request that the rejection of the claims under 35 U.S.C. § 112, second paragraph be withdrawn.

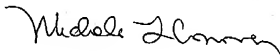
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Conclusion

Applicants respectfully submit that claims 13, 15-26, 29-35 and 37-41, as amended, are in condition for allowance and request that a timely Notice of Allowance be issued in this case. The Examiner is invited to contact the undersigned should he have any questions in this matter.

Respectfully submitted,



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Date: August 16, 2005
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